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BRIGHTON COLLECTIBLES, INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BRIGHTON COLLECTIBLES, INC., a
Delaware corporation,

Plaintiff,

vs.

RK TEXAS LEATHER MFG, INC. d/b/a
TEXAS LEATHER MANUFACTURING, a
Texas corporation; RICHARD OHR, an
individual, K&L IMPORTS, INC., a
California corporation; NHW, INC. d/b/a
SENSETRADING CO., a Texas corporation;
YK TRADING, INC., a Texas corporation;
JCNY, a New Jersey corporation; JOY MAX
TRADING, INC., a California corporation;
AIF CORPORATION d/b/a GLOBAL TIME
INTERNATIONAL, LUCKY-7
INTERNATIONAL and TIME WORLD, a
Texas corporation; and Does 1 through 10,
inclusive,

Defendants.

Case No. 10-CV-00419- CAB (WVG)

The Hon. Cathy Ann Bencivengo

**JOINT MOTION RE: SCHEDULING OF
(A) BRIEFING AND HEARING ON
DEFENDANTS' MOTIONS FOR
SUMMARY JUDGMENT AND RELATED
ISSUES AND (B) PRE-TRIAL
DISCLOSURES AND PRE-TRIAL
CONFERENCE**

Trial Date: None Set

1 All parties hereto, through their respective counsel of record, respectfully submit this joint
 2 motion seeking a modified schedule governing (a) the briefing and hearing on defendants' motions
 3 for summary judgment and related *Daubert* motions; and (b) pre-trial disclosures and the pre-trial
 4 conference.

5 **I. BACKGROUND.**

6 Plaintiff Brighton Collectibles, Inc. ("Brighton") filed this copyright, trade dress and unfair
 7 competition action against defendant RK Texas Leather ("Texas Leather") on February 24, 2010.
 8 (Doc. No. 1.) On December 6, 2010, Texas Leather filed a third-party complaint against its
 9 suppliers of the allegedly infringing products. (Doc. No. 17.) On February 28, 2011, Brighton
 10 filed a First Amended Complaint which added direct claims against Texas Leather's suppliers.
 11 (Doc. No. 51.) On August 31, 2011, Brighton filed a Second Amended Complaint which added
 12 additional copyright claims, a registered trademark claim and claims against Texas Leather's
 13 owner, Richard Ohr. (Doc. No. 87.) The operative scheduling order was entered on January 11,
 14 2012 at Doc. No. 121. The case was transferred from the Honorable Anthony J. Battaglia to the
 15 Honorable Cathy Ann Bencivengo on June 7, 2012. (Doc. No. 135.)

16 The parties have worked diligently to complete both fact and expert discovery, which was
 17 especially challenging in light of the many parties, counsel and experts involved in the action and
 18 the fact that witnesses were scattered throughout the United States.

19 Following the close of discovery, on June 12, 2012, the parties participated in a mandatory
 20 settlement conference with Magistrate Judge Gallo. The parties and Magistrate Judge agreed to
 21 reconvene for another settlement conference after the Court rules on defendants' motions for
 22 summary judgment.

23 In June and July 2012, Defendants filed a total of five motions for summary judgment or
 24 adjudication and a variety of notices of joinders related thereto. Defendants also filed two motions
 25 in limine to exclude Brighton's experts Drs. Gary Frazier and Robert Wunderlich. All of
 26 defendants' motions are set to be heard on August 23, 2012, thus making all of Brighton's
 27 oppositions due on August 9, 2012 and all of defendants' replies due on August 16, 2012.

28 Upon receipt and review of the motions, counsel for Brighton determined that additional

time would be needed to oppose defendants' motions. Defendants' motions include briefing in excess of 150 pages and thousands of pages of exhibits. Moreover, the parties have invested substantial time and expense in this matter, and therefore all parties seek a full and fair opportunity to brief the merits of their positions. Finally, lead counsel for Brighton – Peter W. Ross and Keith J. Wesley – both have pre-planned vacations that will render them unavailable to work on the oppositions from July 19, 2012 through July 29, 2012.

In light of the factors above, counsel for Brighton met and conferred with counsel for the defense about extending the time for Brighton to oppose defendants' motions. In light of the anticipated volume of Brighton's oppositions and supporting evidence, Brighton too offered to provide defendants additional time for their reply briefs.

The parties agreed that the most sensible and preferable course would be to continue not only the hearing on defendants' motions for summary judgment and related issues, but also continue the pre-trial conference currently set for November 2, 2012. The logic is that the parties require additional time to brief the issues raised in defendants' motions, the Court likely will require time to review and rule upon the motions, and then the parties and Magistrate Judge will need time to explore the possibility of settlement. The parties agree that all of the aforementioned tasks should be undertaken prior to the parties expending additional time and expense engaging in pre-trial disclosures and related filings. That time and expense would be a waste if a settlement is reached, and the expenditure of additional funds on pre-trial disclosures and related filings will make settlement all the more difficult to reach.

II. STIPULATION.

Therefore, all parties hereto, through their respective counsel of record, have agreed upon the following amended case management schedule and respectfully request that the Court enter an Order memorializing the parties' agreement or setting a schedule reasonably in conformance with the following:

- September 7, 2012 – Brighton's Oppositions To Defendants' Motions
- September 28, 2012 – Defendants' Replies
- October 12, 2012 – Hearing on Defendants' Motions

- 1 • November/December 2012 – Settlement Conference
- 2 • February 1, 2013 – Pretrial Disclosures
- 3 • February 8, 2013 – Last Day to Meet and Confer Pursuant to Local Rule 16.1(f)(4)
- 4 • February 15, 2013 – Final Pretrial Conference Order
- 5 • February 22, 2013 – Final Pretrial Conference

6 To the extent the parties' proposal or a similar schedule is not acceptable to the Court, the
7 parties maintain their joint request to continue the briefing schedule and hearing on defendants'
8 motions for summary judgment and related issues and respectfully request the opportunity to be
9 heard or to submit an alternative proposal in that regard.

1 Dated: July 12, 2012

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4
5 By s/ Keith J. Wesley

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7 Dated: July 12, 2012

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14 Dated: July 12, 2012

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19 Defendant YK Trading, Inc.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 2121 Avenue of the Stars, Suite 2400, Los Angeles, CA 90067.

On July 12, 2012, I served true copies of the following document(s) described as **JOINT MOTION RE: SCHEDULING OF (A) BRIEFING AND HEARING ON DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT AND RELATED ISSUES AND (B) PRE-TRIAL DISCLOSURES AND PRE-TRIAL CONFERENCE** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on July 12, 2012, at Los Angeles, California.


Diane Torosyan

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10-CV-00419-AJB-WVG

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